United Nations CRPD/C/HRV/CO/1

Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

# Concluding observations on the initial report of Croatia*

## I. Introduction

1. The Committee considered the initial report of Croatia (CRPD/C/HRV/1) at its 178th and 179th meetings (CRPD/C/SR.178 and 179), held on 30 and 31 March 2015, respectively, and adopted the following concluding observations at its 193rd meeting, held on 13 April 2015.

2. The Committee welcomes the initial report of Croatia, which was prepared in accordance with the Committee's reporting guidelines, and thanks the State party for the written replies (CRPD/C/HRV/Q/1/Add.1) to the list of issues prepared by the Committee.

3. The Committee appreciates the fruitful dialogue held with the State party's delegation and commends the State party for the high level of its delegation, which included many representatives of relevant government ministries. The Committee welcomed the independent participation of the Ombudswoman for Persons with Disabilities.

## II. Positive aspects

4. The Committee commends the State party on a number of achievements, notably the National Strategy of Equalization of Opportunities for Persons with Disabilities 2007–2015, the Plan for Deinstitutionalization and Transformation of Social Welfare Homes and Other Legal Entities Providing Social Welfare, the National Programme for the Protection and Promotion of Human Rights 2008–2011 and various legislative measures such as the new Voters Registration Act (2013) the amendments to the Anti-discrimination Act (2012) and the new Social Welfare Act (2013). It also commends the State party for its legislative measures to abolish plenary guardianship and enable persons with disabilities to be recognized as persons before the law on an equal basis with others, the expanded quota obligations for the employment of persons with disabilities, and ensuring that disability benefits were not reduced as a result of austerity measures taken in the wake of the financial crisis. The Committee welcomes the fact that a number of shelters for victims of violence have been adapted for persons with disabilities.

* Adopted by the Committee at its thirteenth session (25 March–17 April 2015).

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# III. Principal areas of concern and recommendations

## A. General principles and obligations (arts. 1–4)

5. The Committee is concerned that the State party has not yet comprehensively reviewed domestic legislation with a view to implementing the human rights model of disability. It notes that there seems to be a lack of understanding of the meaning of reasonable accommodation and universal design in areas such as education, health, employment and the built environment. The Committee is concerned that, owing to the lack of a broad network of service providers, organizations of persons with disabilities have been forced to take on the role of service providers at the expense of their advocacy role.

6. **The Committee recommends that the State party initiate a comprehensive review of existing legislation and, where necessary, bring it into line with the Convention. It recommends that the concepts of reasonable accommodation and universal design be regulated beyond the context of the Anti-discrimination Act in areas such as education, health, transportation and building. The Committee recommends that the State party provide funding to enable organizations of persons with disabilities to fulfil their role under article 4 (3) of the Convention.**

## B. Specific rights (arts. 5–30)

### Equality and non-discrimination (art. 5)

7. The Committee is concerned that, for the purposes of entitlement to social services and benefits, a distinction is made between different causes of impairments, such as war or accidents. It is also concerned that exclusion and segregation in education, work and residential living is not regarded as a form of discrimination.

8. **The Committee recommends that disability-based services and benefits be made available to all persons with disabilities, irrespective of the cause of their impairment. It also recommends that the State party take legislative and policy measures to clarify that disability-based exclusion and segregation in education, employment and other fields of social life is a form of discrimination.**

### Women with disabilities (art. 6)

9. The Committee is concerned that a high proportion of women with disabilities have primary school education only, or less. Moreover it is concerned about the gap between the number of men with disabilities in employment and the number of women with disabilities in employment. The Committee is also concerned at reports about violence in families and institutions, in particular psychiatric institutions, against women and girls with disabilities.

10. **The Committee recommends that, in consultation with organizations representing women with disabilities, measures be taken to strengthen the development and empowerment of women with disabilities in fields such as education and employment, and that immediate action be taken to protect women and girls with disabilities from violence, including sexual violence. The Committee recommends mainstreaming women with disabilities into general gender equality policies. It recommends that sufficient budget resources be allocated and clear timelines established for the implementation of all those measures. The Committee recommends that data and statistics on the situation of women and girls with disabilities be systematically collected, including indicators that assess intersectional discrimination, and that an analysis of them be included in the next periodic report.**

**Children with disabilities (art. 7)**

11. The Committee is seriously concerned about the high rate of child abandonment and subsequent institutionalization of children with disabilities in the State party, particularly owing to the lack of attention and care they receive in the areas of education, health and habilitation, their vulnerability to violence and abuse, and the limited scope of specific measures for them in rural areas. The Committee is also concerned that children with disabilities are not systematically involved in decisions that affect their lives and do not have the opportunity to express their opinions on matters that affect them directly.

12. **The Committee recommends that the State party ensure that children with disabilities are protected on an equal basis with others in all legislation, policies and measures aimed at children, and that it strengthen its policy on the deinstitutionalization of children with disabilities. It also recommends that the State party establish and implement a strategy to prevent people from abandoning children with disabilities, and that it adopt safeguards to ensure that children with disabilities are consulted on all matters that affect them. The Committee recommends that the State party implement a moratorium on new admissions to institutions and strengthen its efforts to provide psychological, financial and social service support measures to families.**

**Awareness-raising (art. 8)**

13. The Committee is concerned that insufficient measures are being taken to raise awareness about the rights of persons with disabilities and that the medical and charity models of disability still prevail in the mass media.

14. **The Committee recommends that the State party, in cooperation with organizations of persons with disabilities and other stakeholders, implement public awareness campaigns to reinforce the positive image of persons with disabilities as holders of all the human rights recognized in the Convention. It recommends that the State party provide training to all public authorities and public or private professionals working with persons with disabilities on the rights enshrined in the Convention.**

**Accessibility (art. 9)**

15. The Committee is concerned that accessibility to buildings, facilities, transportation and information and communication services is still rather low, especially outside the capital city area. The Committee is concerned that accessibility is narrowly interpreted to pertain to the physical environment and transportation only, whereas information and communication services are neglected.

16. **The Committee recommends that the State party assess accessibility with respect to buildings, facilities and transportation as well as accessibility to information and communication services, as referred to in the Committee's general comment No. 2 (2014) on accessibility, and adopt action plans to improve accessibility with clearly defined and realistic deadlines and indicators. Organizations of persons with disabilities should be involved in planning and implementing the accessibility plans. The Committee also recommends that the State party allocate sufficient resources to make public and private transportation accessible to persons with disabilities.**

**Equal recognition before the law (art. 12)**

17. The Committee is concerned that substituted decision-making has not been replaced by supported decision-making in law and in social practice, and that legislative amendments that are envisaged still consider the best interest of the person as opposed to

his or her will and preferences, and would maintain a modified regime of substitute decision-making. The Committee is concerned that the Constitutional Court has suspended the new Family Act, which abolished plenary guardianship.

18. **The Committee recommends that the State party take legislative measures to abolish substitute decision-making regimes, in accordance with the Committee's general comment No. 1 (2014) on equal recognition before the law. It also recommends that the State party introduce legislation to provide a wide range of measures that respect the autonomy, will and preferences of persons with disabilities, including their rights to give and withdraw their individual informed consent for medical treatment, to access justice, to vote, to marry, to full parental rights and to work. It further recommends that the State party take tangible steps to introduce systems of supported decision-making and, to this end, train social workers, legal professionals and public authorities on the rights enshrined in the Convention. Organizations of persons with disabilities and other relevant stakeholders should be involved in these legislative and policy processes.**

### Liberty and security of the person (art. 14)

19. The Committee is concerned that people with disabilities are subjected to involuntary detention and admission to institutions on the basis of their impairment. The involuntary detention of persons with psychosocial and intellectual disabilities is of particular concern.

20. **The Committee recommends that legal provisions that permit involuntary commitment on the basis of impairment be repealed and that laws, including the Act on the Protection of Persons with Mental Disorders, be aligned with the Convention.**

21. The Committee is concerned that there is a lack of information about persons with disabilities who are allegedly involved in crimes and about the application of the rule of law in such cases.

22. **The Committee recommends that the State party review its procedures and practices related to the investigation, prosecution and treatment of persons with disabilities who commit criminal offences. The State party should examine whether the general safeguards and legal standards of criminal justice, including the presumption of innocence and the right to a fair trial, are always applied. The Committee's statement on article 14 of the Convention (see CRPD/C/12/2, annex IV) should be used as a guideline in this regard.**

### Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)

23. The Committee is concerned at the poor living conditions in a significant number of social care institutions and psychiatric facilities where persons with disabilities, mostly women, have to live in degrading and overcrowded surroundings for the rest of their lives. It is concerned about the frequent use in those institutions of involuntary treatment and restraint measures, as well as other forms of degrading treatment. The Committee is concerned that the State party's laws do not sufficiently protect persons with disabilities who live in institutions from violence and involuntary and degrading treatment.

24. **The Committee urgently recommends that immediate steps be taken to address the poor living conditions in institutions, to end involuntary treatment and to put a stop to the use of restraint measures. It also recommends that the relevant legislation be brought into line with the Convention, and that all human rights violations be investigated and the perpetrators prosecuted.**

**Freedom from violence and abuse (art. 16)**

25. The Committee is concerned that mainstream services for victims of violence are not generally accessible to persons with disabilities, and that in particular women, girls and boys with disabilities are left unprotected. It is also concerned that, with the exception of the State Commission for the Protection of Persons with Mental Disorders, there is no independent monitoring mechanism in line with article 16 (3) for programmes and facilities serving persons with disabilities.

26. **The Committee recommends that the State party mainstream services aimed at the protection of persons with disabilities from violence and that it make such services fully accessible. Furthermore, monitoring mechanisms should be developed in line with article 16 (3) of the Convention.**

**Protecting the integrity of the person (art. 17)**

27. The Committee is deeply concerned that children and adults with disabilities can be sterilized without their free and informed consent pursuant to the Health Act, in cases in which their parents or guardians have so requested. It is also concerned that persons with disabilities are frequently forced to receive medical treatment.

28. **The Committee recommends that:**

(a) **The Health Act be urgently amended to unconditionally prohibit the sterilization of boys and girls with disabilities, and that of adults with disabilities in the absence of their individual prior, fully informed and free consent;**

(b) **Persons with disabilities be provided with support to make informed choices and decisions regarding medical procedures and interventions;**

(c) **Medical professionals be trained in accessible and alternative communication techniques in order to communicate with persons with intellectual, psychosocial and sensory impairments.**

**Living independently and being included in the community (art. 19)**

29. The Committee is concerned that not all residential institutions, such as small private institutions, wards for long-term care in psychiatric institutions and foster homes for adults, are covered by the deinstitutionalization plan. It is also concerned that a legal framework providing for personal assistance services allowing for independent living in the community is lacking and that such services are only available to a limited number of persons with disabilities.

30. **The Committee recommends that the process of deinstitutionalization include all residential institutions and foster homes for all persons with disabilities. It recommends that a legal framework be adopted to provide for entitlement to personal assistance services in the community and that a process be initiated to make local communities and mainstream services accessible to persons with disabilities.**

**Freedom of expression and opinion, and access to information (art. 21)**

31. The Committee remains concerned by the failure to provide all information in accessible formats, to effectively promote and facilitate the use of Croatian sign language as the country's official sign language, and to use all other accessible formats of communication.

32. **The Committee recommends that the State party step up its efforts to adapt the e-citizens project to meet the need of people with disabilities and to ensure that they have access to information on an equal basis with others by promoting and facilitating**

**the use of easy-to-read, Braille and audio formats and other augmentative and alternative communication in official interactions, and by making public websites accessible. It also recommends that the State party adopt measures for the effective and timely implementation of the Act on Croatian sign language and other forms of communication support for the deaf and deaf-blind persons, including its regulation, in close consultation with, and with the active involvement of, persons with disabilities. It further recommends that the State party ensure that deaf persons are provided with sign language interpretation in all judicial procedures.**

**Respect for home and family life (art. 23)**

33. The Committee is concerned that the parental rights of persons with disabilities have not been recognized.

34. **The Committee recommends that the State party take legal and practical action to ensure that persons with disabilities can exercise their parental rights and adopt children on an equal basis with others. It also recommends that the State party provide all persons with disabilities with accessible information on sexual and reproductive rights and access to adoption services, and community-based support services for parents with disabilities.**

**Education (art. 24)**

35. The Committee is concerned that a large number of persons with disabilities have not completed primary education, that less than 30 per cent have completed secondary education, and that steps to provide reasonable accommodation to students with disabilities in mainstream educational facilities are insufficient. It is also concerned that exclusionary and segregated education of persons with disabilities is not considered discriminatory.

36. **The Committee recommends that the State party take immediate steps to ensure that all persons with disabilities have access to inclusive quality primary, secondary and tertiary education and that reasonable accommodation is provided in mainstream education. It also recommends establishing the principle that exclusionary and segregated education is discriminatory. It recommends that teachers and other professionals receive training on inclusive education and that all secondary education facilities be made accessible to persons with disabilities.**

**Health (art. 25)**

37. The Committee is concerned that the excessive burden of proof placed on people with disabilities who are not insured under the compulsory health-care system can result in them having no access to health-care facilities. It is also concerned that mainstream health services are not accessible to and adequate for persons with disabilities.

38. **The Committee recommends that further efforts be made to ensure that people with disabilities who do not have compulsory health-care insurance have access to health-care facilities. The Committee also recommends that access to mainstream health services, including sexual and reproductive health services, are made accessible to people with disabilities, especially in rural areas. It also recommends that health professionals in mainstream health services are urgently trained in treating persons with disabilities and respecting the rights enshrined in the Convention.**

**Habilitation and rehabilitation (art. 26)**

39. The Committee is concerned that many boys and girls with disabilities have no access to early intervention services, and that the situation is particularly hard for children with autism.

40. **The Committee recommends that the State party take measures to provide early intervention services to all children with disabilities.**

**Work and employment (art. 27)**

41. The Committee is concerned that the majority of persons with disabilities are either unemployed or have low-income employment.

42. **The Committee recommends that the State party develop and implement, in cooperation with organizations of persons with disabilities, a plan of action to increase the employment of persons with disabilities in the open labour market. It recommends that the quota system is complemented with other incentives for employers to hire persons with disabilities. Disincentives to employment for persons with disabilities should be analysed and remedied. Reasonable accommodation, including supported employment with personal assistance, and the accessibility of the workplace, should be regulated and monitored.**

**Adequate standard of living and social protection (art. 28)**

43. The Committee is concerned that many persons with disabilities are living in poverty, particularly those in rural areas and those of Roma origin. The Committee is also concerned about the use of a restrictive financial assets test, which has downgraded the disability benefit to a social protection benefit.

44. **The Committee recommends that poverty reduction programmes be strengthened. It also recommends that benefits aimed at alleviating increased costs arising from disability should be based on an assessment of the individual's support needs, and should disregard any financial assets test.**

**Participation in political and public life (art. 29)**

45. The Committee is concerned that the electoral process is not yet fully accessible to all persons with disabilities. Furthermore, it is concerned about the persistently low number of persons with disabilities in executive and representative public bodies.

46. **The Committee recommends that measures be taken to make the electoral process fully accessible to all persons with disabilities and to facilitate their participation in representative and executive bodies.**

**Participation in cultural life, recreation, leisure and sport (art. 30)**

47. The Committee is concerned about the low participation of persons with disabilities in cultural life. It is also concerned that Croatia has not yet ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired, or Otherwise Print Disabled.

48. **The Committee recommends that the State party take appropriate steps to ensure the accessibility of mainstream cultural facilities and enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, such as by establishing disability art festivals. It recommends that the State party ratify the Marrakesh Treaty.**

## C. Specific obligations (arts. 31–33)

### Statistics and data collection (art. 31)

49. The Committee is concerned that the State party's system of data collection does not enable it to gather the information it needs, such as data on violence against women and girls with disabilities, to plan and strategize for the fulfilment of its duties under the Convention.

50. **The Committee recommends that the State party systematically review and reform the data collection system as it pertains to persons with disabilities, with the active involvement of and in close consultation with persons with disabilities and their representative organizations.**

### International cooperation (art. 32)

51. **The Committee calls for the integration of a disability rights-based perspective, in accordance with the provisions of the Convention, into all efforts aimed at the achievement of the Millennium Development Goals and into the post-2015 development agenda.**

### National implementation and monitoring (art. 33)

52. The Committee is concerned that the independent monitoring body, the Office of the Ombudsman for Persons with Disabilities, is not designated as such by law and that it has no outreach possibilities to rural areas. The Committee is also concerned that organizations of persons with disabilities and other civil society organizations do not receive sufficient supported from the Government to enable them to participate in national implementation and monitoring.

53. **The Committee recommends that the State party ensure that it has an independent monitoring body in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) by adopting appropriate legislation on the Office of the Ombudsman for Persons with Disabilities. It also recommends that the State party provide organizations of persons with disabilities and other civil society organizations with adequate resources to enable them to participate fully and effectively in the national implementation and monitoring process.**

### Follow-up and dissemination

54. The Committee requests that the State party submit within 12 months information in writing on the measures taken to implement the recommendations set out in paragraphs 24 and 28 (a) above.

55. The Committee requests the State party to implement the recommendations of the Committee as contained in the present concluding observations. It recommends that the State party transmit the concluding observations for consideration and action to members of the Government and Parliament, officials in relevant ministries, local authorities, members of relevant professional groups, such as education, medical and legal professionals, as well as the media, using modern social communication strategies.

56. The Committee strongly encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its periodic reports.

57. The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and representative

organizations of persons with disabilities, as well as to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and in accessible formats, and to make them available on the government website on human rights.

**Next report**

58. The Committee requests that the State party submit its combined second, third and fourth periodic reports by no later than 15 September 2021 and to include therein information on the implementation of the present concluding observations. The Committee invites the State party to consider submitting the above-mentioned reports under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the date set for the report/combined reports of a State party. The replies of a State party to such a list of issues constitute its report.